IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.17813 of 2004
Date of Decision: 21.5.2007

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Resham Singh and others Vs. Superintendent Canal Officer, Sirhind Canal Circle,Ludhiana and others

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Present : Mr.S.K. Laddi, Advocate for the petitioners.
Mr.N.D.S. Mann, Addl.A.G. Punjab.
Mr.Sandeep Khunger, Advocate for respondent no.3.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Challenge in this writ petition is, to orders dated 14.12.2001, 6.8.2003 and 4.12.2003 passed by the Divisional Canal Officer, Faridkot Canal Division, Faridkot and the Superintending Canal Officer, Sirhind Canal Circle, Ludhiana respectively.

The grievance of the petitioners is that the canal authorities should not have allowed respondent no.3's request for change of his land measuring 6/7 acres from out let Burji No.76625/TF Rajbaha Mari to outlet Burji No.10600-R Gandhara Minor.

It is contended by counsel for the petitioners that before allowing respondent no.3's application, the petitioner was never served. He, therefore, filed an application for review on 5.6.2003, which was dismissed on 6.8.2003. His appeal challenging the aforementioned order was dismissed on 4.12.2003. It is contended that the impugned orders are illegal and void as the mandatory provisions of Section 20 and 30-B of the Northern India Canal and Drainage Act, 1873 have been violated. The petitioners were never served or summoned by the authorities. It is further asserted that the respondents land is at a distance of 50 acre,and would affect irrigation to the petitioners land.

Counsel for the respondents, however, contends that the present writ petition is malafide. The petition for review was delayed by 1.1/2 years and the writ petition by 9 months. The Divisional Canal Officer recorded a categoric finding that petitioner no.3 one of the co-sharers had been duly served. The appeal filed by the petitioners was dismissed on 4.12.2003, whereas the present writ petition was only filed on 16.11.2004. It is further contended that the orders passed by the Canal authorities have already been implemented at the site and, therefore, the present petition has also become infructuous.

We have heard learned counsel for the parties and perused the impugned orders.

We are satisfied that the orders passed by the authorities do not suffer from any error. The Divisional Canal Office, while dismissing the application for review recorded a finding that petitioner no.3 Jeet Singh, father of petitioners no.1 and 2, co-sharers, refused to receive summons. The petition for review was filed after 19 months and after the order of the

Divisional Canal Officer had already been implemented. The writ petition was filed 9 months after the dismissal of the appeal. As the order of the Divisional Canal Officer stands implemented, the present petition is in essence infructuous. We find no ground to interfere with the impugned orders. Dismissed.

(RAJIVE BHALLA)
JUDGE

21.5.2007
GS

(P. SATHASIVAM)
JUDGE